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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,689	08/05/2003	Yoshinori Yasumoto	KASAP038	8351

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EXAMINER	
NGUYEN, XUAN LAN T	
ART UNIT	**PAPER NUMBER**
3683	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/635,689	YASUMOTO ET AL.	
	Examiner	Art Unit	
	Lan Nguyen	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 December 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *Translation of JP382*.

DETAILED ACTION

Claim Rejections - 35 USC § 102/103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2 and 4-6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 4-46246 (from here on would be referred to as JP246).

Re: claims 1, 2 and 4, JP246 shows a dynamic damper, in figures 3 and 4 as in the present invention, comprising: a mass member 3; a support frame member 6 fixable to a vibrative member 1, and including a substantially rectangular support frame portion surrounding said mass member with a given gap distance therebetween and having a pair of support sides opposed to each other in a first direction with said mass member disposed therebetween, said support frame member being closed in a circumferential direction thereof as shown in figures 3 and 4 wherein support frame member 6 completely surrounding the mass 3; and a plurality of elastic connecting members 5

disposed in spaces defined between said pair of support sides of said support frame portion and opposing end faces of said mass member, respectively and elastically connecting said mass member with respect to said pair of support sides of said support frame portion, wherein said support frame portion is deformed so that said pair of support sides are relatively displaced toward each other to pre-compress said plurality of elastic connecting members. Note the English explanation wherein it states that the projections 5 are held in contact with inner surface of the metallic case 6. This can only be accomplished when the projections 5 are pre-compressed, otherwise they would be free to move about inside of housing 6. Note also that the term "deformed" has been interpreted broadly in that a deformation has occurred in order for housing 6 to assume the shape as illustrated in figure 3. Note also that the amendment to claim 1 comprising the process of vulcanization. However, it has been settled that the determination of patentability in a product by process claim is based on the product itself, even though the claim may be limited and defined by the process. See In re Thorpe, 777 F2d 695, 697, 227 USPQ 964, 966 (Fed. Cir. 1985).

Re: claim 5, note that figures 1 and 3 of JP246 shows that the housing 6 could be completely surrounding the mass member 3 or housing 6 cooperates with another element 2 to surround mass 3.

Re: claim 6, JP246 shows the projections 5 as claimed. Note that claim 5 recites the term "adapted" to be fixed to a steering shaft. The damper of JP246 would be able to be "adapted" to be fixed to a steering shaft.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP2824382 (from here on would be referred to as JP382) in view of Suzuki (JP 02057475A).

Re: claims 1 and 2, JP382 shows a dynamic damper, in figures 1-4 as in the present invention, comprising: a mass member 41; a support frame member 45 fixable to a vibrative member 46, and including a substantially rectangular support frame portion partially covering said mass member with a given gap distance therebetween and having a pair of support sides opposed to each other in a first direction with said mass member disposed therebetween; and a plurality of elastic connecting members 42 disposed in spaces defined between said pair of support sides of said support frame portion and opposing end faces of said mass member, respectively and elastically connecting said mass member with respect to said pair of support sides of said support frame portion. JP 382 lacks the support frame portion surrounding the mass member wherein said support frame member being closed in a circumferential direction thereof and the support frame portion is deformed so that said pair of support sides are relatively displaced toward each other to pre-compress said plurality of elastic connecting members. Suzuki teaches the concept of having support frame portion 32

surrounding the mass member 41; wherein said support frame member being closed in a circumferential direction thereof, and the support frame portion is deformed as shown in figure 7 so that said pair of support sides are relatively displaced toward each other in order to improve safety when the elastic legs are broken due to elastic fatigue. Note that as modified, JP382's damper would comprise the support frame portion surrounding the mass member and the support frame portion is deformed so that said pair of support sides are relatively displaced toward each other in turn pre-compressing said plurality of elastic connecting members. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified JP382's damper with support frame portion surrounding the mass member and the support frame portion is deformed so that said pair of support sides are relatively displaced toward each other in turn pre-compressing said plurality of elastic connecting members as taught by Suzuki in order to improve safety when the elastic legs are broken due to elastic fatigue. Note that the amendment to claim 1 comprising the process of vulcanization. However, it has been settled that the determination of patentability in a product by process claim is based on the product itself, even though the claim may be limited and defined by the process. See In re Thorpe, 777 F2d 695, 697, 227 USPQ 964, 966 (Fed. Cir. 1985).

Re: claim 3, JP382 shows the central portion and the end portions of the mass member 41 as claimed.

Re: claim 4, Suzuki shows the deformation as claimed.

Re: claim 5, Suzuki shows that member 32 cooperates with element 18 to surround mass 41.

Re: claim 6, JP382 shows the elastic legs 42 and the steering shaft 46 as claimed.

Re: claims 7 and 8, JP382 shows the legs 42 as claimed.

Re: claim 9, JP382 shows a method of producing a dynamic damper, as in the present invention, comprising the steps of: preparing a mass member 41; preparing a support frame member 45 fixable to a vibrative member 46 and including a substantially rectangular support frame portion having a pair of support sides opposed to each other in a first direction, as shown; disposing said support frame member with respect to said mass member such that said support frame portion partially covers said mass member with a given gap distance therebetween as shown, molding a plurality of elastic connecting members 42 in a vulcanization process such that said plurality of elastic connecting members are disposed in spaces defined between said pair of support sides of said support frame portion and opposing end faces of said mass member, respectively, and that each of said plurality of said elastic connecting members is bonded to both of corresponding one of said pair of support sides and corresponding one of said opposing end faces of said mass member so that said mass member is elastically connected at both of said opposing end faces with respect to said pair of support sides of said support frame portion via said plurality of elastic connecting members as shown in figure 4 and as described in page 3, lines 9-14, lines 31-35 of the translation. JP382 also describes that the elastic connecting members 42 are pre-

compressed in page 4, lines 4-9 wherein JP382 states that mass 41 is pinched by the elastic connecting members 42. JP382 lacks the support frame portion surrounding the mass member, and the support frame member being closed in a circumferential direction thereof; and the support frame portion is deformed. Suzuki teaches the concept of having support frame portion 32 surrounding the mass member 41, said support frame member being closed in a circumferential direction thereof, and the support frame portion is deformed as shown in figure 7 so that said pair of support sides are relatively displaced toward each other in order to improve safety when the elastic legs are broken due to elastic fatigue. Note that as modified, JP382's damper would comprise the support frame portion surrounding the mass member, said support frame member being closed in a circumferential direction thereof; and the support frame portion is deformed so that said pair of support sides are relatively displaced toward each other in turn further pre-compressing said plurality of elastic connecting members. Note that JP382 provides the elastic connecting members being vulcanized to the support frame portion. Deforming the support frame portion as taught by Suzuki would be after the vulcanization of the elastic connecting members. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified JP382's method of producing the damper with the support frame portion surrounding the mass member and the support frame portion being deformed so that said pair of support sides are relatively displaced toward each other in turn further pre-compressing said plurality of elastic connecting members as taught by Suzuki in order to improve safety when the elastic legs are broken due to elastic fatigue.

Re: claim 10, Suzuki shows the deformation as claimed.

Response to Arguments

6. Applicant's arguments filed 12/13/06 have been fully considered.

Regarding the rejection based on JP246, Applicant's amendment to claim 9 has overcome the rejection based on JP246. Hence the rejection of claims 9 and 10 has been withdrawn. The rejection of claims 1, 2 and 4-6 has been changed to a 102/103 rejection as explained above.

Regarding the rejection based on JP382, the rejection to claims 1-10 has been slightly modified to meet the amendment. Applicant argues that JP382 fails to teach the support frame portion being deformed after the vulcanization process. As stated in the rejection above of claim 9, JP382 provides the process of vulcanization of the elastic support members and also teaches a pre-compression of the elastic support members by stating that the mass member is pinched by the elastic support members. In order to pinch the mass member, the elastic support members of JP382 must exert forces on either side of the mass member. The forces can only exist if the elastic support members are pre-compressed to provide a biasing force on the mass member, thereby pinching the mass member. However, JP382 is silent of how the elastic support members are being pre-compressed in order to pinch the mass member. Suzuki teaches the deformation of the support frame portion to bring the sides closer together. The deformation would come after as a modification to the support frame member of

JP382, which already comprises the vulcanized elastic support members. And by doing so, the modified JP382 would further compress the elastic support members.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lan Nguyen
Primary Examiner
Art Unit 3683

Lan Nguyen 12/29/06